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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,215	08/13/2001	Cortland Otis Dugger		6702

7590

07/17/2003

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EXAMINER

BOS, STEVEN J

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 07/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/505,215

Applicant(s)

Dugger

Examiner

Steven Bos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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It is noted that the paper filed February 16, 2000 containing priority information and claims 1,2 has not been entered as there are no instructions for entry of same.

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required. The filing date of the instant application is August 13, 2001 which is after the date of the patented parent application of May 23, 2000. See MPEP 201.11.

The first 3 lines of page 1 of the instant specification regarding priority are incorrect.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "aqueous hydrogen fluoride solution or its derivatives" is indefinite as to what the metes and bounds of "its derivatives" are. It is indefinite as to what is considered to be a derivative of an aqueous hydrogen fluoride solution.

In claims 2-5, step (a) is referred to however no such "step (a)" is recited in claim 1. It is suggested that each occurrence of "step" be deleted.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 93/17959 or Dugger '305. See pp. 16-23 of WO '959 and cols. 13,14 of Dugger.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Payne '874 in view of Kaaber '847.

Payne teaches the process of reacting a metal oxide, eg. alumina, with an aqueous HF solution to form a solution, drying the solution and recovering a metal hydroxyfluoride, eg. aluminum hydroxide fluoride, which was then calcined to form aluminum fluoride (see cols. 6-7). During the calcination of aluminum hydroxide fluoride an intermediate product of aluminum oxyfluoride would form prior to the formation of aluminum fluoride.

Payne differs in that the taught calcining of aluminum hydroxide fluoride to form aluminum fluoride does not teach that aluminum oxide is also formed.

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Kaaber teaches that when aluminum hydroxide fluoride is calcined it forms aluminum fluoride and aluminum oxide (see the abstract).

It would have been obvious to one of ordinary skill in the art to form aluminum oxide in the process of Payne when the aluminum hydroxide fluoride is calcined because that is what Kaaber teaches in a similar calcination process.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Bos whose telephone number is (703) 308-2537. The examiner is on the increased flexitime program schedule and can normally be reached between 8AM and 6PM Monday through Friday. The FAX No. for After Final amendments is 703-872-9311; for all others it is 703-872-9310. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.


Steven Bos
Primary Examiner
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